

DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, CA 95814

January 13, 1993

ALL-COUNTY LETTER NO. 93-07

.TO: ALL PUBLIC AND PRIVATE ADOPTION
AGENCIES
ALL SDSS ADOPTIONS DISTRICT OFFICES

REASON FOR THIS TRANSMITTAL

- ☒ State Law Change
- ☐ Federal Law or Regulation Change
- ☐ Court Order or Settlement Agreement
- ☐ Clarification Requested by One or More Counties
- ☐ Initiated by SDSS

SUBJECT: DESIGNATED RELINQUISHMENTS

REFERENCE: Assembly Bill 3456 (Chapter 667, Statutes of 1992)

Assembly Bill 3456 (Conroy), Chapter 667, Statutes of 1992, amended Civil Code Section 222.10 to allow designated relinquishments in the agency (relinquishment) adoption program. This letter discusses the provisions of AB 3456 and describes the actions adoption agencies are to take to implement this statute. The procedures described in this letter are effective January 1, 1993, and are to be followed until the Department issues final Adoption Program Regulations implementing this legislation.

AB 3456 amended Civil Code Section 222.10 to provide that "...The birth parent may name in the relinquishment the person or persons with whom the birth parent intends that placement of the child for adoption be made by the department or licensed adoption agency." The statute also defines the actions that the adoption agency is required to take if the intended adoptive placement is not made or if the child is removed from the adoptive placement prior to finalization of the adoption. These provisions include giving the relinquishing parent who signed a relinquishment naming the intended adoptive parents the absolute right to rescind the relinquishment within thirty days of being notified that the placement was not made or failed. Attachment 1 is a copy of Civil Code Section 222.10 as amended by AB 3456.

It must be emphasized that these adoptions are, first of all, agency adoptions. An adoption of a child who has been relinquished with a designated relinquishment is subject to the same statutory and regulatory requirements that any other agency adoption is subject to (e.g., home study, collection and sharing of background information, legal responsibility for the relinquished child). The only difference is that the birth parent who signs a relinquishment naming the intended adoptive parents has additional, specific rights if the intended adoption is not completed.

Adoption agencies are not required to accept designated relinquishments. That is, the statute does not require adoption agencies to accept relinquishments that name the intended adoptive parents nor does it require an agency that accepts such relinquishments to accept a relinquishment naming intended adoptive parents with whom the agency believes placement would be inappropriate. However, agencies are required to inform parents considering relinquishment of the availability of designated relinquishment just as agencies inform parents of the availability of alternatives to adoption and independent adoption.

Although the terms "identified agency adoption" or "identified adoption" are sometimes used when referring to cases subject to the provisions of this statute, the statute affects only the rights of a parent who signs a designated relinquishment. Because the statute does not require that *both* relinquishing parents name the intended adoptive parents, one parent could sign a designated relinquishment while the other parent signs a standard relinquishment that does not name the intended adoptive parents. In such a case, the parent who signed the standard relinquishment would not have the same rescission rights that the parent who signed the designated relinquishment has.

The statute does not authorize licensed private adoption agencies to accept designated relinquishments for children who are Juvenile Court dependents. Such relinquishments are only to be accepted by the county adoption agency or Department District Office providing adoption services in the county where the child is a dependent, unless the aforementioned responsible public agency concurs with the taking of the relinquishment by a different agency.

Required Implementation Actions

All Relinquishing Parents

All adoption agencies interviewing birth parents considering relinquishment shall include discussion of the fact that a parent has the option of either signing a relinquishment that does not identify the adopting parents or signing a relinquishment that identifies the adopting parents and gives the parent signing the relinquishment the right to rescind the relinquishment if the adoption is not completed. The agency is not required to accept both types of relinquishments and, if the parent wishes to sign a relinquishment that the agency does not accept, the agency should refer the parent to an adoption agency that is willing to accept the type of relinquishment the parent wishes to sign.

Parents Signing Relinquishments Identifying Adoptive Parents

If the parent wishes to sign a relinquishment that identifies the person or persons with whom the parent intends that the agency place the child for adoption and the agency is willing to accept the relinquishment, the agency must make the following changes and additions in the relinquishment forms.

- Statement of Understanding: Pending the revision of all Statements of Understanding used in the Agency Adoption Program, the relinquishing parent must review and sign both the standard Statement of Understanding and a

Statement of Understanding Addendum. Attachment 2 is a copy of the Statement of Understanding Addendum. The Addendum the parent signs shall include two Statements. The first is the same for all parents. The second has four versions. The version of the Addendum signed by the parent is determined by the Statement of Understanding that the parent signs. Prior to signing the Statement of Understanding and the Statement of Understanding Addendum, the items on the standard Statement of Understanding that are replaced by the statements on the addendum shall be crossed out and the words "See Addendum" written in the left margin by the crossed out item. The replaced items are: AD 885 - items 5 and 8, AD 885A - items 9 and 11, AD 885B - items 10 and 12, AD 885C - items 12 and 15.

The Statement of Understanding modifications are slightly different for children who are subject to the Indian Child Welfare Act. Contact the Adoptions Branch for further information before accepting a designated relinquishment for a child subject to the ICWA.

- Relinquishment Document: The relinquishing parent must sign both the appropriate standard relinquishment and the relinquishment addendum which names the intended adopting parents. Attachment 3 is a copy of the Relinquishment Addendum. Before the parent signs either the appropriate relinquishment or the Relinquishment Addendum, the agency shall type the following statement above the relinquishing parent's signature line on the appropriate standard relinquishment document:

"This relinquishment document includes a second page that names the person or persons with whom I/we intend that the child be placed for adoption."

The Department is developing relinquishment documents to be used by birth mothers, presumed fathers and alleged fathers in California who name the intended adopting parents. The addendum will continue to be used by other relinquishing parents naming the intended adopting parents.

If the child is not placed for adoption or if the adoptive placement disrupts prior to finalization, the adoption agency shall notify the relinquishing parent by certified mail, return receipt requested, within seventy-two hours of deciding not to place the child in the identified adoptive home or the decision to remove the child from the identified adoptive home.

The adoption agency shall rescind the relinquishment of any parent to whom notice has been mailed, if that parent delivers, or has delivered by mail or other method, before the end of the thirty-day period beginning on the day after the notice was mailed a written request to the agency stating that he/she wishes to rescind his/her relinquishment and/or have the child returned. The adoption agency is not required to accept requests for rescission made after the end of the thirty-day period. Such late rescission requests would be subject to agency agreement.

If, before the end of the thirty-day period, the parent requests that the relinquishment be rescinded, the adoption agency shall:

- Notify the Juvenile Court of the fact that the relinquishment has been rescinded if the child is a dependent of the court.

- Mark "VOID" on all copies of the relinquishment form signed by the rescinding parent.
- File the rescinded relinquishment in the case record.
- Notify the department of the rescission within three working days from the date the written request to rescind the relinquishment was received.


If the parent identifies a different person or persons with whom the child is to be placed and the adoption agency concurs with this plan, the agency shall accept a new relinquishment.

If the parent does not wish the adoption agency to engage in further adoptive planning for the child or if the parent identifies a different person or persons with whom the child is to be placed and the adoption agency does not concur with this plan, the adoption agency shall:

- If the child is not a dependent of the court, mutually agree with the parent regarding the time and place for return of the child. The agency shall return the child no later than seven working days from the time the request to rescind is made. The adoption agency shall obtain a signed statement from the rescinding parent that physical custody of the child was returned to the parent.
- Notify any other relinquishing parent of the rescission and inform the other parent(s) that he or she may also rescind his or her relinquishment.

Finally, when completing Item 17, "Action(s) to free child for adoption," on the "Relinquishment Adoption Program Individual Case Report" (form AD 42R), the agency should use Code 12 rather than Code 01 to identify the relinquishment as a designated relinquishment.

If you have any question regarding agency identified adoption procedures, please contact Joseph Magruder, Adoptions Policy Consultant at (916) 323-0524 (ATSS 473-0524).



JAMES W. BROWN
Acting Deputy Director
Adult and Family Services

cc: CWDA

Attachments

Civil Code Section 222.10:

"(a) The birth father or mother may relinquish a child to the department or a licensed adoption agency for adoption by a written statement signed before two subscribing witnesses and acknowledged before an authorized official of the department or the licensed adoption agency. The relinquishment, when reciting that the person making it is entitled to the sole custody of the child, shall, when duly acknowledged before the officer, be prima facie evidence of the right of the person making it to the sole custody of the child and the person's sole right to relinquish.

"(b) A birth parent who is a minor shall have the right to relinquish his or her child for adoption to the department or a licensed adoption agency, and the relinquishment shall not be subject to revocation by reason of the birth parent's minority.

"(c) If a birth father or mother of a child resides outside the State of California and the child is being cared for and is placed for adoption by the department or a licensed adoption agency, the birth father or mother may relinquish the child to the department or licensed adoption agency by a written statement signed by the birth father or mother before a notary on a form prescribed by the department, and previously signed by an authorized official of the department or licensed adoption agency, which signifies the willingness of the department or licensed adoption agency to accept the relinquishment.

"(d) The relinquishment authorized by this section shall be of no effect until a certified copy is filed with the department. Upon filing with the department, the relinquishment is final and may be rescinded only by the mutual consent of the department or licensed adoption agency to which the child was relinquished and the birth parent or parents relinquishing the child.

"(e) The birth parent may name in the relinquishment the person or persons with whom the birth parent intends that placement of the child for adoption be made by the department or licensed adoption agency.

"(f) Notwithstanding subdivision (d), if the relinquishment names the person or persons with whom placement by the department or licensed adoption agency is intended and the child is not placed in the home of the named person or persons or the child is removed from the home prior to the granting of the adoption, the department or licensed adoption agency shall mail a notice by certified mail, return receipt requested, to the birth parent signing the relinquishment within 72 hours of the decision not to place the child for adoption or the decision to remove the child from the home.

"(g) The birth parent shall have 30 days from the date on which the notice described in subdivision (f) was mailed to rescind the relinquishment.

(1) If the birth parent requests rescision during the 30-day period, the department or licensed adoption agency shall rescind the relinquishment.

(2) If the birth parent does not request rescision during the 30-day period, the department or licensed adoption agency shall select adoptive parents for the child.

(3) If the birth parent and adoption agency wish to identify a different person or persons during the 30-day period with whom the child is intended to be placed, the initial relinquishment shall be rescinded and a new relinquishment identifying the person or persons completed.

"(h) The filing of the relinquishment with the department shall terminate all parental rights and responsibilities with regard to the child, except as provided in subdivisions (f) and (g)."

RELINQUISHMENT ADDENDUM

Note to parent signing relinquishment:

This page is an integral part of the relinquishment document. If you are naming the person or persons with whom your child will be placed for adoption, do not sign either page unless the agency accepting the relinquishment has included the following statement on the page titled "Relinquishment" or "Relinquishment of Indian Child": "This relinquishment document includes a second page that names the person or persons with whom I/we intend that the child be placed for adoption."

It is my/our intention that _____,
an organization licensed by the Department of Social Services of
the State of California or authorized by Welfare and Institutions
Code Section 16130 to find homes for children and to place
children in homes for adoption, place my/our child for adoption
with _____. If the agency
does not place the child in this home or if the child is removed
from the home before the final adoption decree is granted, the
agency will notify me/us at the address below. If I/we receive
such notice, I/we will have thirty days from the date of the
notice to either rescind the relinquishment, rescind the
relinquishment and select another home or take no action. If
I/we do not rescind the relinquishment within the thirty day
period, the agency may place the child in a home that the agency
selects.

Address:

_____	_____
_____	_____
_____	_____
_____	_____

Date: _____

STATEMENT OF UNDERSTANDING ADDENDUM

The following Statement replaces Statement 5 on the AD885, Statement 9 on the AD885A, Statement 10 on the AD885B and Statement 12 on the AD885C:

[] I understand that by relinquishing my child I am giving up my child to the adoption agency.

A. If I sign a relinquishment that does not name the adopting parents, I am giving up the right to select adoptive parents and the final decision about who adopts my child will be made by the adoption agency.

B. If I sign a relinquishment that names the adopting parents, I am giving up my child to the adoption agency which intends to place my child with the person or persons named on the relinquishment document.

If my child is not placed in the home of the named person or persons or my child is removed from the home before the adoption is completed:

(1) The agency will send me a notice by certified mail, return receipt requested, within 72 hours of the decision not to place my child for adoption or the decision to remove my child from the home. I must keep the agency informed of my address if I want to receive such a notice.

(2) I will have thirty days from the date the notice was mailed to me to either:

a. Rescind the relinquishment. The agency will rescind the relinquishment if I deliver, or have delivered by mail or other means, a written request to rescind the relinquishment to the agency before the end of thirty day period, or

b. Take no action. If I take no action during the thirty day period, I will lose my right to rescind the relinquishment and the agency will select adoptive parents for my child, or

- c. Select another placement for my child. If, during the thirty day period, I select another person or persons with whom my child is to be placed, I will rescind the initial relinquishment and complete a new relinquishment document identifying the person or persons with whom I then wish the agency to place my child.

The following statement replaces Statement on the AD885:

- [] I understand that once my signed relinquishment has been filed with the State Department of Social Services, Adoptions Branch it is final and:
- A. I cannot stop the relinquishment and have my child returned to me unless the adoption agency agrees.
 - 1. The adoption agency must agree if the adopting parent is named on the relinquishment and my child is not placed in the named home or my child is removed from the home before the adoption is completed.
 - B. If the adoption agency does not agree, the adoption agency will inform me in writing of the reason(s) for not giving me my child.
 - C. If the adoption agency agrees to return my child, the rights and responsibilities as my child's parent will continue unless taken away by other legal action.
 - D. If the adoption agency agrees to return my child, the return shall normally take three working days and in no case, no more than seven calendar days.

(parent)

Date: _____

The following Statement replaces Statement 11 in the AD885A:

[] I understand that once my signed relinquishment has been filed with the State Department of Social Services, Adoptions Branch it is final and:

A. I cannot stop the relinquishment unless the adoption agency agrees.

1. The adoption agency must agree if the adopting parent is named on the relinquishment and my child is not placed in the named home or my child is removed from the home before the adoption is completed.

B. If the adoption agency does not agree, the adoption agency will inform me in writing of the reason(s).

C. If the adoption agency agrees to stop the relinquishment, my child will stay a juvenile court dependent and any terms and/or conditions from the child being a court dependent do not change.

1. The adoption agency will immediately refer my child back to the county welfare department.

(parent)

Date: _____

The following Statement replaces Statement 12 on the AD885B:

[] I understand that once my signed relinquishment has been filed with the State Department of Social Services, Adoptions Branch it is final and:

A. I cannot stop the relinquishment unless the adoption agency agrees.

1. The adoption agency must agree if the adopting parent is named on the relinquishment and my child is not placed in the named home or my child is removed from the home before the adoption is completed.

B. If the adoption agency does not agree, the adoption agency will inform me in writing of the reason(s).

C. If the adoption agency agrees to stop the relinquishment, my child will stay a juvenile court dependent and any terms and/or conditions from the child being a court dependent do not change.

1. The rights and responsibilities as my child's parent will continue unless taken away by other legal action.

2. The adoption agency will immediately refer my child back to the county welfare department.

(parent)

Date: _____

The following Statement replaces Statement 15, the AD885C:

- [] I understand that once my signed relinquishment has been filed with the State Department of Social Services, Adoptions Branch it is final and:
- A. I cannot stop the relinquishment unless the adoption agency agrees.
 - 1. The adoption agency must agree if the adopting parent is named on the relinquishment and my child is not placed in the named home or my child is removed from the home before the adoption is completed.
 - B. If the adoption agency does not agree, the adoption agency will inform me in writing of the reason(s).
 - C. If the adoption agency agrees to stop the relinquishment, I will have to prove I am the father of this child in court if I want to be a parent to this child.

(parent)

Date: _____